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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,774	11/09/2001	Adrian Benetti	P07430US00/WEJ	5632

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EXAMINER

BOYD, JENNIFER A

ART UNIT PAPER NUMBER

1771

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/986,774	BENETTI, ADRIAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jennifer A Boyd	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 15-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Group 1, claims 1 – 14, in the Response dated August 12, 2003 is acknowledged.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 – 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2 – 6 and 8 -14 are rejected as being dependent on rejected claim 1.

4. Claim 1 is rejected because it is unclear what constitutes a *substantially* flat core. Can the core be elliptically shaped or must it be completely flat? Please define the shape of the core without using the broad term “substantially”. For the purpose of examination at the time, the Examiner will interpret the phrase “substantially flat core” as a core which is not perfectly round such as a flattened, elliptical or oval shaped core or a core that has been flatted or compressed.

5. Claim 7 is rejected because it is unclear what constitutes a *sufficiently* dense knitted cover and what criteria is used to determine that the knitted cover is *substantially* covering the flat core. Please define the knitted cover without using the broad terms “sufficiently” and “substantially”. For the purpose of examination at the time, the Examiner will interpret that a sufficiently dense knitted covering which substantially covers the core is a knitted covering which completely surrounds the core.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 – 2, 4 – 5, 7 – 10 and 13 – 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Sosnowski (US 5,889,229).

Sosnowski is directed to a self-terminating, knitted, metallized yarn EMI/RFI shielding gasket (Title). It should be noted that the Examiner has given no patentable weight to “a flat low friction cord”. Furthermore, it has been held that a recitation with respect to the manner in which a claimed article is intended to be employed does not differentiate the claimed article from a prior art article satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

As to claim 1, Sosnowski teaches a core, a first tubular layer and a second tubular layer (Abstract). Sosnowski teaches that the core can have a cross-sectional shape such as oval, elliptical and rectangular (column 3, lines 15 – 19). The Examiner equates the core to Applicant’s “substantially flat core”. The second tubular layer, equated to Applicant’s “knitted cover”, is preferably knit (column 4, lines 10 – 11). The second tubular layer entirely covers the core as seen in Figures 2 – 7.

As to claim 2, Sosnowski teaches shows in Figure 1 that the yarn is more oriented, or straight and in alignment, in the direction of the gasket than the transverse direction.

As to claim 4, Sosnowski teaches that the second tubular layer, or "knitted cover", is made of yarns comprising *filaments*. When multiple filaments are present in a yarn, the filaments must be twisted in either an S or Z direction to create an effective yarn.

As to claim 5, Sosnowski teaches that the yarn in the second tubular layer or "knitted cover", has a denier in the range of 70 – 300 (column 4, lines 20 – 24).

As to claim 7, Sosnowski teaches in Figure 1 that the second tubular layer, or "knitted cover", is dense and covers the core completely.

As to claims 8 and 9, Sosnowski teaches that the yarn used can include nylon yarn plated with silver (column 4, lines 13 – 15). It is known in the art that nylon is a synthetic material.

As to claim 10, Sosnowski teaches that the core can be made of polyurethane foam (column 3, lines 29 – 33).

As to claim 13, Sosnowski teaches that the core is surrounded by a first tubular layer which is made of hot melt adhesive yarn in a knitted form or can be replaced with other adhesive products (column 3, lines 55 – 67).

As to claim 14, Sosnowski teaches that the adhesive is activated by heat and has a quick set time (column 3, lines 55 – 65). Sosnowski teaches that after the melting of the adhesive, the second tubular member, or "knitted cover", is adhered to the core and longitudinal movement is prohibited (column 4, lines 50 – 60).

***Claim Rejections - 35 USC § 103***

8. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sosnowski (US 5,889,229).

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As to claim 3, Sosnowski discloses the claimed invention except for that the yarns comprising the "knitted cover" extend in a continuous zigzag pattern. It would have been obvious to one having ordinary skill in the art at the time the invention was made to create the "knitted cover" with a zigzag pattern since it has been held to be within the general skill of a worker in the art to select a pattern based on the desired aesthetics and end use of the product.

As to claim 6, Sosnowski discloses the claimed invention except for that the yarns have a denier of 1500. It should be noted that denier is a result effective variable. For example, as the denier increases, the knitted material becomes more rigid and the strength increases. It would have been obvious to one having ordinary skill in the art at the time the invention was made to create a "knitted cover" with yarns having a denier of 1500, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have been motivated to optimize the denier to create a strong yet flexible gasket.

9. Claims 11 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sosnowski (US 5,889,229) in view of Benn, Jr. (US 6,613,976).

Sosnowski teaches that the core can be made of foamed elastomers, composite materials, polymers and other resilient non-elastomeric materials (column 3, lines 34 – 39). Sosnowski specifically teaches the use of a polyurethane foam (column 3, line 30).

Sosnowski fails to teach that the core can be made of foamed polyvinyl chloride (PVC).

Benn, Jr. teaches an electromagnetic interference shielding gasket (Title). Benn, Jr. teaches that the gasket is made from an easily compressible extruded foam or sponge (column 3,

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lines 19 – 22). Specifically, Benn, Jr. teaches the use of a foamed polyurethane or polyvinyl chloride (PVC) (column 3, lines 55 – 63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the foamed polyvinyl chloride of Benn, Jr. in the core of the gasket of Sosnowski motivated by the suggestion that foamed polyurethane has similar properties to foamed polyvinyl chloride and can be interchanged with foamed polyvinyl chloride as the core in gaskets.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Crestline et al. (US 3,581,778) is directed to an oblong hose having a plasticized polyvinyl core, an outer layer comprising of synthetic fibers and an adhesive used to bind the components of the hose together, however, Crestline fails to teach the specifics of the polyvinyl core and the fibrous outer layer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 703-305-7082. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the

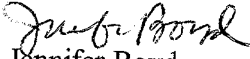
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organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Jennifer Boyd  
September 17, 2003

